

PORBANDAR COAL AGENCY : Gujarat High Court in this ruling, allowing assessee's writ petition, has quashed reopening notices u/s 148 pertaining to block/search assessment period, based on search material remaining unused in earlier search assessment, holding that:

"It is indicated by learned Senior Advocate, Mr. Soparkar, that the question is already addressed and answered by this Court in the case of Cargo Clearing Agency (Gujarat) v. Joint Commissioner of Income Tax, (2008) 307 ITR 1 (Gujarat), where a view is taken that once assessment has been framed under Section 158BA of the Income Tax Act, in relation to undisclosed income for the block period as a result of search, there is no question of the Assessing Officer issuing notice under Section 148 of the Act for reopening such assessment as the said concept is repugnant to the special scheme of assessment of undisclosed income for the block period. We have examined the said judgment and we find that the issue arising before us is squarely covered and answered by the said judgment of Cargo Clearing Agency (supra).

4. In this view of the matter, the petition deserves to be allowed. The impugned notice dated 14th December, 1999 is hereby quashed and set aside. Rule is made absolute without any orders as to costs."